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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-269

13 **MICHELLE MARIE DOWDEN**

14 **Address of Record:**
15 **8203 Silver Lure Drive**
16 **Humble, TX 77346**

DEFAULT DECISION AND ORDER

17 **Additional Address:**
18 **929 Kingwood Circle**
19 **Lewisville, TX 75077**

[Gov. Code, §11520]

20 **Registered Nurse License No. 584655**

21 **Respondent.**

22 **FINDINGS OF FACT**

23 1. On or about October 11, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her
24 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
25 Consumer Affairs, filed Accusation No. 2013-269 against Michelle Marie Dowden
26 ("Respondent") before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

27 2. On or about July 31, 2001, the Board of Registered Nursing ("Board") issued
28 Registered Nurse License No. 584655 to Respondent. The Registered Nurse License expired on
October 31, 2004, and has not been renewed.

1 3. On or about October 11, 2012, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 2013-269, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at Respondent's address of record which, pursuant to California Code of
5 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.
6 Respondent's address of record was and is: 8203 Silver Lure Drive, Humble, TX 77346.

7 4. On or about October 11, 2012, Respondent was served by Certified and First Class
8 Mail copies of the Accusation No. 2013-269, Statement to Respondent, Notice of Defense,
9 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
10 and 11507.7) at an additional address: 929 Kingwood Circle, Lewisville, TX 75077.

11 5. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 6. None of the aforementioned documents described in Paragraphs 3 were returned by
15 the U.S. Postal Service.

16 7. The documents described in Paragraph 4 served by Certified Mail were delivered on
17 October 15, 2012. The documents described in Paragraph 4 served by First Class Mail were not
18 returned by the U.S. Postal Service.

19 8. Government Code section 11506 states, in pertinent part:

20 (c) The respondent shall be entitled to a hearing on the merits if the respondent
21 files a notice of defense, and the notice shall be deemed a specific denial of all parts
22 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

23 9. Respondent failed to file a Notice of Defense within 15 days after service upon her of
24 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2013-
25 269.

26 10. California Government Code section 11520 states, in pertinent part:

27 (a) If the respondent either fails to file a notice of defense or to appear at the
28 hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to

respondent.

11. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2013-269, finds that the charges and allegations in Accusation No. 2013-269, are separately and severally, found to be true and correct by clear and convincing evidence.

12. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$910.00 as of November 6, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Michelle Marie Dowden has subjected her Registered Nurse License No. 584655 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

(a) Business and Professions Code section 2761, subdivision (a)(4) on the grounds of unprofessional conduct in that Respondent's registered nurse license was disciplined by the Texas Board of Nursing ("Texas Board"), as follows:

(i) On or about September 8, 2009, in a case entitled *In the matter of Registered Nurse License Number 680439 issued to Michelle Dowden Kasprzak*, the Texas Board adopted an Agreed Order ("First Agreed Order") giving Respondent the sanction of a warning with stipulations. The Texas Board made certain findings of fact, to which Respondent admitted, in support of the First Agreed Order, as follows: On or about June 30, 2007, Respondent attempted suicide by drug overdose. Respondent was found unresponsive in her bathroom with a needle next to her arm. Emergency medical personnel secured two small make-up bags from

1 Respondent's home closet that contained narcotics, specifically, morphine, dilaudid, lorazepam,
2 and diazepam, along with used and unused needles. Respondent admitted that she attempted to
3 take her own life.

4 (ii) On or about January 27, 2011, in a case entitled *In the matter of*
5 *Registered Nurse License Number 680439 issued to Michelle Dowden Kasprzak*, the Texas Board
6 adopted an Agreed Order ("Second Agreed Order") giving Respondent the sanction of reprimand
7 with stipulations. The Texas Board made certain findings of fact, to which Respondent admitted,
8 in support of the Second Agreed Order, as follows: On September 8, 2009, Respondent was
9 issued the sanction of warning with stipulations. On or about November 10, 2009, Respondent
10 failed to comply with the First Agreed Order issued September 8, 2009 in that Respondent failed
11 to comply with the condition of the First Agreed Order that required her to notify all future
12 employers in writing of the First Agreed Order and to present them a copy of the First Agreed
13 Order. Respondent admitted that on November 10, 2009 she signed an offer of employment with
14 Denton Regional Medical Center without providing a complete copy of the First Agreed Order.

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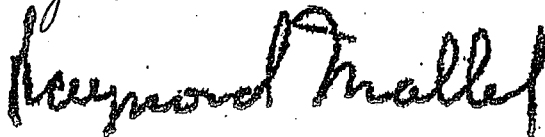
ORDER

IT IS SO ORDERED that Registered Nurse License No. 584655, heretofore issued to Respondent Michelle Marie Dowden, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 8, 2013.

It is so ORDERED February 8, 2013



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51188695.DOC
DOJ Matter ID:LA2012507813

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 SYDNEY M. MEHRINGER
Deputy Attorney General
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300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2537
6 Facsimile: (213) 897-2804
E-mail: Sydney.Mehringier@doj.ca.gov
7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-269

13 **MICHELLE MARIE DOWDEN**

ACCUSATION

14 Address of Record:
8203 Silver Lure Drive
Humble, TX 77346

15 Additional Address:
929 Kingwood Circle
16 Lewisville, TX 75077

17 Registered Nurse License No. 584655

18 Respondent.

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21 Complainant alleges:

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her
24 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
25 Consumer Affairs.

26 2. On or about July 31, 2001, the Board of Registered Nursing ("Board") issued
27 Registered Nurse License Number 584655 to Michelle Marie Dowden ("Respondent"). The
28 Registered Nurse License expired on October 31, 2004, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811, subdivision (b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

7. Title 16, Section 1419.3 of the California Code of Regulations defines the period in which a license may be renewed or reinstated:

"In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.

(a) A licensee may renew a license that has not been expired for more than eight years by paying the renewal and penalty fees as specified in Section 1417 and providing evidence of 30 hours of continuing education taken within the prior two-year period.

(b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure."

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2 stipulations. The Texas Board made certain findings of fact, to which Respondent admitted, in
3 support of the First Agreed Order, as follows:

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5 Respondent was found unresponsive in her bathroom with a needle next to her arm. Emergency
6 medical personnel secured two small make-up bags from Respondent's home closet that
7 contained narcotics, specifically, morphine, dilaudid, lorazepam, and diazepam, along with used
8 and unused needles. Respondent admitted that she attempted to take her own life.

9 12. On or about January 27, 2011, in a case entitled *In the matter of Registered Nurse*
10 *License Number 680439 issued to Michelle Dowden Kasprzak*, the Texas Board adopted an
11 Agreed Order ("Second Agreed Order") giving Respondent the sanction of reprimand with
12 stipulations. The Texas Board made certain findings of fact, to which Respondent admitted, in
13 support of the Second Agreed Order, as follows:

14 (a) On September 8, 2009, Respondent was issued the sanction of warning with
15 stipulations.

16 (b) On or about November 10, 2009, Respondent failed to comply with the First
17 Agreed Order issued September 8, 2009 in that Respondent failed to comply with the condition of
18 the First Agreed Order that required her to notify all future employers in writing of the First
19 Agreed Order and to present them a copy of the First Agreed Order. Respondent admitted that on
20 November 10, 2009 she signed an offer of employment with Denton Regional Medical Center
21 without providing a complete copy of the First Agreed Order.

22 PRAYER

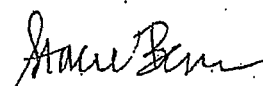
23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board of Registered Nursing issue a decision:

25 1. Revoking or suspending Registered Nurse License Number 584655, issued to
26 Michelle Marie Dowden;

1 2. Ordering Michelle Marie Dowden to pay the Board the reasonable costs of the
2 investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3; and

4 3. Taking such other and further action as deemed necessary and proper.

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6 DATED: October 11, 2012


7 LOUISE R. BAILEY, M.Ed., R.N.
8 Executive Officer
9 Board of Registered Nursing
10 State of California
11 Complainant

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